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No Free Ride: The Cost of Essential Services Designation

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- Designating public services as 'essential' may be intended to protect public safety but it can be very costly to the public purse.
- Evidence from across Canada shows that legislation declaring a public service essential increases the cost of negotiated wage settlements, fuels wage growth across sectors, and is not a definitive way of reducing strikes.
- Policymakers should weigh the costs of essential services legislation against the benefit to public safety of service continuation.

In recent decades, governments across the country have designated as 'essential' a broad range of government-provided services. Declaring a service essential means that workers are allowed to strike but are legally obligated to continue providing designated services during their job action. While apparently an agreeable, win-win compromise between unions and the public, it may not be. Canadian evidence suggests that declaring a public service essential increases the cost of negotiated wage settlements, fuels wage growth across sectors – and does not guarantee that crucial services will be provided in the event of a strike.

Essential Services Across Canada

As of 2008, most provinces, the federal government and some municipal governments have designated that certain services must be provided during a strike. For example, Saskatchewan recently enacted essential services legislation covering police, firefighters and healthcare workers.[1] Manitoba is notable for its very broad range of public services designated as essential, from highway workers to social service workers. British Columbia stands out as the only province that currently designates elementary and secondary teachers as providing essential services. Several provinces do not grant workers in key areas the right to strike in the first place; other provinces allow unfettered strikes.[2] Table 1 shows the government jurisdictions and sectors that have essential service designations.

1 Until 2008, it had been the only province without legislation either banning strikes outright of workers within certain sectors, or designating their services as essential.

2 Strike bans are treated separately than an essential services designation in this analysis; hence, most police and fire contracts are excluded from the analysis of essential services legislation. The data I use do not include negotiations involving less than 500 employees, a number that most police and fire unions do not exceed.

The City of Toronto became the most recent jurisdiction to consider declaring a service essential in the wake of a transit strike in April 2008. Toronto City Councillors are slated to vote in fall 2008 on whether to request that the province declare the Toronto Transit Commission (TTC) an essential public service.

The Effect of Essential Services Designation on Wages

Few Canadian studies have examined the effects of declaring a service essential (Adell et al. 2001, Peykov 2003), even though the effects are potentially significant. While an essential service designation may weaken the apparent bargaining power of unions, there could be a tradeoff involved. The restriction of collective bargaining rights might be a concession that is compensated for with higher wages. The effect of essential services designation on wages is indeterminate *a priori* and is thus an empirical question.

THE METHOD: I examined the question using data from Human Resources and Social Development Canada (HRSDC) for all public sector contract negotiations since 1976 with at least 500 employees.[3] I deem a contract to be influenced by essential services designation if it is negotiated in a jurisdiction and sector where an essential services designation was in force during the first year of a wage settlement. Between 1976 and 2007, there were 6,721 contract negotiations in the public sector.[4] Of these 6,721 cases, there were 802 contract negotiations where an essential services designation applied.

I compared differences across provinces and across time to identify the effect of designating a service as essential, similar to Budd (1996), Currie and McConnell (1991) and Cramton et al. (1999). If one province has one set of rules for a given sector and another province has different rules for the same sector, then the wage agreements between the two provinces may be comparable, after controlling for other economic factors. The same comparison can be done across time by investigating changes in wage growth after a service is designated essential.

I used regression analysis where control factors were held constant to isolate the effects of key variables. The first effect I examined was the average negotiated increase in wages over the life of the contract negotiations, referred to as a wage increase premium (Table 2).[5] The effect on the wage level was then examined (Table 3).[6]

First, I performed a test with all the contract negotiations pooled together, which mainly utilizes variation across provinces in essential services designation. Second, I used a test that examines changes over time within the same union and employer pair.[7] Column 1 in Tables 2 and 3 show the results from the first test and column 2 shows the results with the second test.

3 Thanks to Lynn Picard and Angele Charbonneau of HRSDC for providing this data.

4 After removing 674 contract negotiations at Canadian universities and 151 contracts from the rail transportation sector. No essential services legislation currently applies to postsecondary education and rail services.

5 The factors controlled for in the regression with real wage growth as the dependent variable are: the average increase in average real hourly wages in the province the contracts are negotiated in; the provincial unemployment rate; the number of employees; provincial, sector and year-fixed effects. Fixed effects will control for the lower public-sector wage growth seen in the early 1990s or low wage growth in certain provinces, for example. For wages, the growth in average weekly wage was used between 1976 and 1983 and divided by the average hours worked per week in the province. Average province-wide hourly wages were used after 1983.

6 The factors controlled for in the regression with the logarithm of real wages in 2002 dollars as the dependent variable are: the average real hourly wages in the province; the previous real wage level; the provincial unemployment rate; the number of employees; and provincial, sector and year-fixed effects.

7 This is known as a fixed-effects panel regression. This is a better test than the pooled test where a service has its designation change over the dataset time frame and will be a better test if such services are considered essential regardless of whether this is enshrined in legislation.

Table 1: Current Essential Service Designations by Province and Year of Legislation

Jurisdiction	Provincial and Municipal Civil Servants and Transit Workers	Hospital Employees and Social Services	Public School Teachers	Police Officers	Fire Fighters	Year Essential Services Legislation Enacted
Federal	some essential services	essential service	N/A	RCMP not unionized	essential service	Plant and maintenance workers, nurses, firefighters: 1982–present
British Columbia	some essential services	essential service	essential service	strike ban	strike ban	Teachers: 1978–1992, 2001– present. Hospitals and public servants: 1975–present. Police and fire: 1975–1992
Alberta	strike ban	strike ban	strike	strike ban	strike ban	N/A
Saskatchewan	some essential services	essential service	none	essential service	essential service	All–2008
Manitoba	some essential services	essential service	strike ban	none*	none*	Public servants and hospitals: 1996–present
Ontario	some essential services	strike ban	none	strike ban	strike ban	Psychiatric nurses: 1992–1996
Quebec	some essential services	essential service	none	strike ban	strike ban	Public servants, municipal employees: 1982–present. Hospitals and social services: 1985–present
New Brunswick	some essential services	essential service	none	strike ban	strike ban	Public servants and hospitals: 1968–present. Teachers: 1968–1993
Prince Edward Island	strike ban	strike ban	strike ban	strike ban	strike ban	N/A
Nova Scotia	strike ban	strike ban	none	none	none	Hospitals: 2007–present
Newfoundland and Labrador	some essential services	essential service	none	strike ban	strike ban	Public servants and hospitals: 1983–present

* Strike ban in Winnipeg for police officers and firefighters.

Sources: Adell, et al. (2001); HRSDC "Collective Bargaining Dispute Resolution Process in the Public and Parapublic Sectors in Canada"; and Provincial legislation as interpreted by author.

Table 2: Estimated Effects of Essential Services Legislation on Wage Increases

Dependent Variable:	Percentage Point Increase in Wages (T-score in brackets)	
Model used	1 – Pooled	2 – Fixed Effects
Effect of essential service legislation	0.282	0.410
	(3.29)**	(2.51)*
Average provincial increase in real wages	0.412	0.421
	(17.50)**	(16.77)**
Provincial unemployment rate	-0.067	-0.065
	(-2.96)**	(-2.54)**
Controls:		
Previous wage increase*	No	No
Number of employees	Yes	Yes
Province	Yes	No
Year contract is effective	Yes	Yes
Sector	Yes	No
Number of observations	6721	6721
Number of groups	N/A	970

* Significant at 5% level. ** Significant at 1% significance level.

Model 1 is a pooled cross-sectional OLS. Model 2 is a fixed-effects panel regression.

Sources: Adell, et al. (2001); HRSDC "Collective Bargaining Dispute Resolution Process in the Public and Parapublic Sectors in Canada"; Provincial legislation as interpreted by author; HRSDC "Wage Increases in Major Agreements"; and CANSIM Tables 281-0021, 282-0001, 281-0008, 282-0074, 326-0021.

Table 3: Estimated Effects of Essential Services Legislation on Hourly in Wage Levels

Dependent Variable:	Log of Real Wages, 2002 Dollars Percentage Increase in Wages (T-score in brackets)	
Model used	1 - Pooled	2 - Fixed Effects
Effect of essential service legislation	0.4	0.8
	(3.43)**	(3.70)**
Effect of average provincial real wages in year of negotiation (log)	6.7	9.6
	(7.08)**	(8.85)**
Effect of Provincial unemployment rate	-0.2	-0.1
	(-6.60)**	(-3.76)**
Controls:		
Previous wage (log)	Yes	Yes
Number of employees	Yes	Yes
Province	Yes	No
Year contract is effective	Yes	Yes
Sector	Yes	No
Number of observations	6721	6721
Number of groups	N/A	970

* Significant at 5% level. ** Significant at 1% level.

Model 1 is a pooled cross-sectional OLS. Model 2 is a fixed-effects panel regression.

Coefficients in a log model can be interpreted as being the percentage increase in the dependent variable from a one percent increase in the independent variable.

Sources: Adell, et al. (2001); HRSDC "Collective Bargaining Dispute Resolution Process in the Public and Parapublic Sectors in Canada"; Provincial legislation as interpreted by author; HRSDC "Wage Increases in Major Agreements"; and CANSIM Tables 281-0021, 282-0001, 281-0008, 282-0074, 326-0021.

THE FINDINGS: The results show declaring a service essential has the effect of increasing annual average wage hikes by 0.28 to 0.41 percentage points. In 2007, nominal annual wage growth of public sector employees was around 3 percentage points, meaning that the effect of essential services designation was as much as a 13 percent wage premium in the negotiated nominal increase. Discounted for inflation, real wage increases averaged around 0.5 percent per year, suggesting that essential service designation has a very large effect relative to the total real wage increase. The effect on the *level* of wages was different, leading to an increase of up to 0.8 percent in the average hourly wage.[8]

One caveat: while wages were higher after a service was declared essential this may be because wage negotiations have usually involved third parties – such as arbitrators – which may lead to higher wages than an unfettered strike model (Gunderson et al 1996, Currie and McConnell 1991).

Lessons for the TTC and Future Decisions on Essential Services

Applying these findings to the example of the Toronto Transit Commission yields some troubling projections. If TTC salaries were 0.8 percent higher owing to an essential services designation, this would amount to a $6 million annual increase in labour expenditures, which currently total approximately $850 million. The increase would accelerate in the future since wage adjustments would be around 13 percent higher than in the past. Over a three-year contract, the total salary premium would amount to $23 million.

For what public gain? While legislation designating a service as essential may be politically popular, the legislation can still be ignored by unions that choose to strike illegally without providing designated services, as teachers did in British Columbia in 2005. The 2005 New York City transit strike shows that even legislation banning strikes is not sufficient to ensure service. Looking at all sectors, essential services designations have resulted in partial strikes that have lasted longer (Adell et al. 2001). The designation has increased the probability of there being a partial strike by approximately 5 percent relative to there being no law on service designation (Currie and McConnell 1991).

Essential services legislation in Quebec is often considered the model approach, particularly for transit in large cities (Adell et al. 2001). However, since the introduction of essential services legislation in 1982, hourly real wages for Montreal transit workers are 6 percent higher compared to a national average of 4 percent for public employees. Transit strikes in Montreal have also been ended with provincial legislation at least twice since they were designated essential in 1982.[9]

Another factor to consider: essential services legislation has been most effective in maintaining services in areas where services are truly essential to public safety and has been less effective in services where public safety is not immediately imperilled by a full work stoppage (Adell et al. 2001). Public safety during a transit strike is primarily endangered if there is insufficient planning for dedicated routes for emergency vehicles. This is a dilemma that can be overcome through means other than essential services legislation.

Conclusion

While government officials may wish to be seen to ensure essential public services by way of legislation, the designation is costly for taxpayers and increases the length and likelihood of partial strikes. While seeming an easy solution, policymakers should weigh the costs of essential service designation in terms of a higher likelihood of smaller and partial strikes combined with more expensive wage agreements.

8 The results in Tables 2 and 3 assume that real wages are deflated with a provincial specific 'all items' consumer price index (CPI) where negotiators only consider the inflation rate in the year the settlement became effective. Similar results were found using models that assumed both forward and backward looking negotiations that used inflation one year before and after wage agreements became effective. See Auld et al. (1981) for a discussion of how inflation is incorporated into wage negotiation.

9 Human Resources and Social Development Canada. 2008. "Provincial Ad Hoc Emergency Legislation." http://www.hrsdc.gc.ca/en/lp/spila/clli/irlc/EMER-PR-E.PDF

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